

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BARBARA STUART ROBINSON;

Case No. C17-1187RSM

Plaintiff,

ORDER GRANTING MOTIONS TO DISMISS

V.

SEATTLE POLICE DEPARTMENT; and
UWAJIMAYA, INC.; UWAJIMAYA
VILLAGE OWNERS ASSOCIATION;
UWAJIMAYA VILLAGE, LLC;
UWAJIMAYA REAL PROPERTIES, LLC;
EQR-UWAJIMAYA VILLAGE, LLC.

Defendants.

This matter comes before the Court on Defendant Seattle Police Department (“SPD”’s Motion to Dismiss, Dkt. #6, and Defendants Uwajimaya, Inc., Uwajimaya Village, LLC, Uwajimaya Village Owners Association, Uwajimaya Village, LLC, Uwajimaya Real Properties, LLC, and EQR-Uwajimaya Village, LLC (“collectively “Uwajimaya Defendants”’)s Motion to Dismiss, Dkt. #13. Plaintiff Barbara Stuart Robinson opposes these Motions. Dkts. #16 and #17.

In her complaint, Plaintiff alleges that “on July 10, 2017 at 8:00PM Uwajimaya¹ knowingly held the Plaintiff in there [sic] building after a alein [sic] came into there [sic]

¹ The Court notes that Uwajimaya is the name of a grocery store located in the International District/Chinatown neighborhood of Seattle, Washington. See Dkt. # 1-2 at 4.

1 building with a complaint the Uwajimaya held the plaintiff and called the Seattle Police
2 Department causing injury to the Plaintiffs [sic] rights.” Plaintiff goes on to state “on July 10,
3 2017, the Seattle Police Department appearing to the call to the building at Uwajimaya . . . and
4 Uwajimaya trespassed [sic] the plaintiff in result of the Seattle Police Department recklessly
5 disregarding the Plaintiffs complaint of alien has come to, entered, or remained in the united
6 states.” Complaint at Dkt. #1-2, ¶ 3. Plaintiff further alleges, “because Seattle Police
7 Department and Uwajimaya refused to give the Plaintiff proof of the person she was video
8 taping as a united states citizen, the Defendants abridged the Plaintiffs contitutional [sic] rights
9 under the 14th amendment of equal protections of the law 8 USC 1324.” *Id.* at ¶ 5. Plaintiff
10 then alleges that SPD “negligently” abridged her constitutional rights in violation of 42 U.S.C.
11 § 1983 and that SPD violated her constitutional rights when she was trespassed in “the pursuit
12 of her constitutional rights.” *Id.*

15 In her accompanying declaration, Plaintiff alleges that on July 10, 2017, Uwajimaya
16 held her against her will after receiving a complaint “from a alien person” that Plaintiff was
17 videotaping her.” Dkt. #1-3 at ¶ 2. Uwajimaya allegedly called SPD and SPD “let the alien
18 leave the building and did not provide the Plaintiff . . . proof of citizenship of the alien” that
19 Plaintiff was videotaping and “was detained and asked to surrender her license to the Seattle
20 Police Officers.” *Id.* Plaintiff alleges that SPD “detained the Plaintiff in the Uwajimaya
21 security and let the alien leave the building without providing the Plaintiff any proof,”
22 depriving Plaintiff of her rights. *Id.* at ¶ 5. Plaintiff attaches to her declaration two pictures of
23 the alleged “alien” crossing the street at two different crosswalks. *Id.* at 4-7.

26 In making a 12(b)(6) assessment, the court accepts all facts alleged in the complaint as
27 true, and makes all inferences in the light most favorable to the non-moving party. *Baker v.*
28 *Riverside County Office of Educ.*, 584 F.3d 821, 824 (9th Cir. 2009) (internal citations omitted).

1 However, the court is not required to accept as true a “legal conclusion couched as a factual
2 allegation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*,
3 550 U.S. 544, 555 (2007)). The complaint “must contain sufficient factual matter, accepted as
4 true, to state a claim to relief that is plausible on its face.” *Id.* at 678. This requirement is met
5 when the plaintiff “pleads factual content that allows the court to draw the reasonable inference
6 that the defendant is liable for the misconduct alleged.” *Id.* The complaint need not include
7 detailed allegations, but it must have “more than labels and conclusions, and a formulaic
8 recitation of the elements of a cause of action will not do.” *Twombly*, 550 U.S. at 555. Absent
9 facial plausibility, a plaintiff’s claims must be dismissed. *Id.* at 570.
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12 The City of Seattle on behalf of the SPD argues that this case should be dismissed
13 because “Plaintiff has not pled any claim amounting to a violation of her equal protection
14 rights” and because “Plaintiff claims to have an equal protection right to be told the name and
15 citizenship status of a stranger” but “[s]he does not.” Dkt. #6 at 5. The City argues that
16 Plaintiff cannot plead a negligence claim under § 1983. *Id.* at 6 (citing *Hummasti v.*
17 *Buckmaster*, No. 06-251-MO, 2006 WL 2548412 (D. Or., August 30, 2006); *Wood v.*
18 *Ostrander*, 879 F.2d 583, 587 (9th Cir.1989)). The City argues that Plaintiff cannot plead a
19 negligence claim even outside of a § 1983 claim, because she cannot establish that a legal duty
20 existed here. *Id.* The City argues that Plaintiff has not and cannot allege unlawful detention,
21 citing *United States v. Wardlow*, 528 U.S. 119, 123 (2000), for the standard for an investigatory
22 stop. *Id.* SPD also argues that this Court should hold Plaintiff to the vexatious litigant
23 requirements established for Ms. Robinson in *Barbara Stuart Robinson v. Tacoma Community*
24 *College*, No. C11-5151BHS, 2011 WL 6096295 (Dec. 7, 2011) for any future attempts at
25 amendment. *Id.* at 2. In that case, Judge Settle declared Plaintiff a vexatious litigant, holding:
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1 Barbara Stuart Robinson is hereinafter declared a vexatious litigant
2 in this district and may not file any claim in the Western District of
3 Washington against any government agency, or its employees
4 when acting in their official capacity, without leave of court. When
5 seeking leave of Court, Robinson must submit a separate document
6 that (1) states why the claims are not frivolous and (2) certifies that
7 the claims she wishes to present are new claims never before raised
8 and disposed of on the merits by any federal court. Upon failure to
9 certify or upon a false certification, petitioner may be found in
10 contempt of court and punished accordingly.

11 Id. at *4.

12 In Response, Plaintiff cites to legal authority for the standard of pleading and the
13 standard for bringing an equal protection claim, however her briefing is highly repetitive and
14 jumbled to the point of being nearly incomprehensible by the Court. *See* Dkt. #17. More
15 importantly, Plaintiff fails to adequately address the City's arguments above or discuss the facts
16 of this case.

17 The Uwajimaya Defendants also move to dismiss, arguing, *inter alia*, that a § 1983
18 claim cannot be brought against them because Plaintiff did not plead that they acted under the
19 color of state law and because they are private entities, not state actors. Dkt. #13 at 1.
20 Plaintiff's Response to that Motion suffers from the same problems as her other Response. *See*
21 Dkt. #16.

22 The Court agrees with Defendants. Plaintiff has no equal protection right to be told the
23 name and citizenship status of a stranger. Plaintiff has apparently traveled to Seattle's
24 International District/Chinatown neighborhood to videotape and harass a person only because
25 she appears Asian. Plaintiff's demand to have the police stop this person and obtain proof of
26 her citizenship, based solely on her appearance, is offensive. Even if Plaintiff had some further
27 basis for questioning this person's citizenship status, SPD's actions in detaining Plaintiff to
28 investigate what happened and requesting to see her driver's license do not constitute a basis
 for a § 1983 claim, a negligence claim, or any other claim given the facts pled. The Uwajimaya

1 Defendants are also correct that they cannot be sued under § 1983 as they are private entities
2 not acting under color of state law. Plaintiff has thus failed to state a claim upon which relief
3 can be granted.

4 Where a complaint is dismissed for failure to state a claim, “leave to amend should be
5 granted unless the court determines that the allegation of other facts consistent with the
6 challenged pleading could not possibly cure the deficiency.” *Schreiber Distrib. Co. v. Serv-*
7 *Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986). The Court finds that Plaintiff cannot
8 allege different facts, consistent with the challenged pleading, which could survive dismissal
9 and that therefore leave to amend will not be granted. Dismissal with prejudice is warranted
10 given the above and Ms. Robinson’s history as a vexatious litigant.
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12 Accordingly, the Court hereby finds and ORDERS:
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- 14 1) Defendants’ Motions to Dismiss (Dkts. #6 and #13) are GRANTED.
- 15 2) All of Plaintiff’s claims are DISMISSED with prejudice.
- 16 3) This case is CLOSED.

17 DATED this 18 day of September, 2017.
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20 RICARDO S. MARTINEZ
21 CHIEF UNITED STATES DISTRICT JUDGE
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